

NO. 91642-0

SUPREME COURT  
OF THE STATE OF WASHINGTON

CORTNEY L. BLOMSTROM,  
BROOKE M. BUTTON,  
CHRISTOPHER V. COOPER,

Petitioners,

v.

The Honorable GREGORY J. TRIPP, in  
his official capacity as a Spokane  
County District Court Judge,  
and the SPOKANE COUNTY  
DISTRICT COURT,

Respondents.

ANSWER OF AMICUS  
CURIAE STATE OF  
WASHINGTON TO  
PETITIONERS'  
MOTION TO  
EXCLUDE AND TO  
STRIKE

I. INTRODUCTION

Six weeks after the State of Washington filed its motion for leave to submit an amicus curiae brief in this case, the petitioners have moved to exclude a declaration the State filed in support of its motion and any references the State makes to the declaration in its amicus curiae brief. Because the motion is untimely, and because the information in the declaration was provided to the Court to identify the State's interest in the issue it addressed, as required by RAP 10.3(e) and 10.6(b), and was not used to address the merits of any legal issue, the Court should deny the motion.

## **II. FACTS RELEVANT TO MOTION**

The State filed its motion for leave to file an amicus curiae brief and its amicus curiae brief on April 24, 2017. In support of its motion, the State filed the Declaration of Paul Abbott, who is a supervisor in the Department of Licensing's restricted licenses unit. The petitioners did not object under RAP 10.6(d). This Court granted the State's motion and accepted the State's amicus brief on May 2.

The Declaration of Paul Abbott provides the Court with information about the number of ignition interlock device requirements on record with the State Department of Licensing in 2016. While the State's motion articulating its interest in the case cites to Mr. Abbott's declaration, the State's amicus brief does not. The brief does include one paragraph, in the section describing the identity and interest of amicus, that refers to the statistical information stated in the declaration. Br. Amicus Curiae State of Washington 3–4.

On June 7, the petitioners also filed a Statement of Additional Authorities to provide "additional authorities regarding an ignition interlock device's features." Pet'rs' Statement Additional Authorities 1.

## **III. ANSWER TO MOTION**

Under RAP 10.6(d), an objection to a motion to file an amicus curiae brief must be filed within five business days after receipt of a

motion. The petitioners did not object to the State's motion within five days of May 2, 2017, but rather included an unauthorized motion to exclude and strike in its response brief on May 23, 2017. Pet'rs' Answer Br. Amicus Curiae State of Washington 4; Letter from Supreme Court Deputy Clerk (June 6, 2017). The Petitioners now ask the Court to exclude the declaration of Paul Abbott filed in support of the State's motion and "strike all references to it made in the State of Washington's amicus curiae brief." Mot. to Exclude and to Strike 1. The Court should deny the petitioners' motion as untimely.

Moreover, the State acknowledged in its amicus brief that the background information it provided to the Court was "not in the record on review." Br. Amicus Curiae State of Washington 15. Yet the State's reference to background information on the prevalence of ignition interlock devices was appropriate. RAP 10.6(b) requires a motion to file an amicus curiae brief to state the applicant's interest and familiarity with the issues involved. RAP 10.3(e) directs an amicus brief to "set forth a separate section regarding the identity and interest of amicus and be limited to the issues of concern to amicus." The information in Mr. Abbot's declaration was used to demonstrate the State's interest in and familiarity with the ignition interlock issues raised in the case. It was not used to argue the merits of the legal issues before the Court.

#### IV. CONCLUSION

The State of Washington respectfully asks the Court deny the petitioners' motion to exclude and to strike.

RESPECTFULLY SUBMITTED this 7th day of June, 2017.

ROBERT W. FERGUSON  
Attorney General

A handwritten signature in cursive script that reads "April S. Benson".

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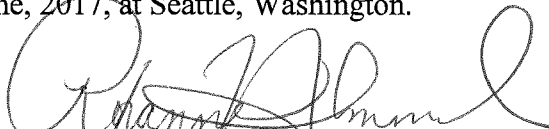
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DATED this 7th day of June, 2017, at Seattle, Washington.

  
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